

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

LARRY THORNTON,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NO.
	§	
WEST COAST LIFE INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	

DEFENDANT’S NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant West Coast Life Insurance Company Insurance Company (“Defendant” or “West Coast Life”), contemporaneously with the filing of this Notice, is effecting the removal of the action described below from the County Court at Law of Bowie County, Texas to the United States District Court for the Eastern District of Texas, Texarkana Division, pursuant to 28 U.S.C. §§ 1332 and 1441(b).

I. PLEADINGS AND PROCESS

1. On or about February 6, 2017, Plaintiff Larry Thornton filed his Original Petition in the County Court at Law of Bowie County, Texas, entitled *Larry Thornton v. West Coast Life Insurance Company Insurance Company*, Case No. 17C0129-CCL (the “Action”). At the heart of Plaintiff’s Petition are his allegations that the Defendant improperly refused payment of the proceeds of Policy No. 200957571 (the “Policy”), and Plaintiff brings this action to recover “the face value of the Policy” in the amount of \$100,000.00. The Original Petition further seeks “monetary relief over \$100,000.00.” (Original Petition at ¶¶ 12-13).

2. Attached as Exhibit “A” hereto is a true and correct copy of all the process, pleadings, notices, and orders delivered to Defendant in the Action pending in the Court at Law of Bowie County, Texas, and said documents are hereby incorporated herein by reference.

3. Attached as Exhibit “B” hereto are the following items pursuant to Local Rule CV-81: a list of all parties in the case, their party name and current status of the removed case; a complete list of attorneys involved in the action being removed, including each attorney’s bar number, address, telephone number, and party or parties represented by him/her; a record of which parties have requested trial by jury; and the name and address of the court from which the case is being removed.

4. Defendant was first served with a copy of the Original Petition on February 9, 2017, and this Notice of Removal is timely filed within thirty days of that date.

II. DIVERSITY JURISDICTION

5. This Action is a civil action in which this Court has original federal jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b) because there was at the time of filing of this Action, and there is now, complete diversity of citizenship between Plaintiff and Defendant, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

A. Citizenship of the Parties

6. Plaintiff is a citizen of Bowie County, Texas. (Original Petition at ¶ 2).

7. Defendant was at the time of the filing of this Action, and is now, a corporation existing under the laws of the State of Nebraska, with its principal place of business in

Birmingham, Alabama. Defendant is therefore a citizen of the State of Nebraska and the State of Alabama for the purposes of this Notice of Removal. 28 U.S.C. § 1332(c)(1); *see also Evolutionary Intelligence, LLC v. Apple, Inc.*, No. 6:12-CV-00783, 2013 WL 8360309, at *4 (E.D. Tex. Aug. 27, 2013) (noting for removal purposes “a corporation is deemed to be a citizen of every state in which it has been incorporated and of the state where it has its principal place of business”).

B. Amount in Controversy

8. The amount in controversy exceeds the jurisdictional minimum of \$75,000.00, exclusive of interest and costs. Plaintiff’s Original Petition asserts a cause of action for breach of an insurance contract, which exceeds the minimum \$75,000.00 jurisdictional threshold. Specifically, Plaintiff seeks the “face value of the Policy” of \$100,000.00 under this cause of action. (Original Petition at ¶¶ 10, 12(a)). In fact, the Original Petition confirms that Plaintiff “seeks monetary relief over \$100,000.00.” (*Id.* at ¶ 13). Thus, if Plaintiff prevails at trial, his damages would greatly exceed the \$75,000.00 jurisdictional amount-in-controversy threshold.

III. TIMELINESS OF REMOVAL

9. Defendant was first served with a copy of the Petition on February 9, 2017, and this Notice of Removal is timely filed within thirty days of that date.

10. Defendant is the only properly-served named Defendant. As such, no other defendants need join or consent to removal.

11. Defendant has sought no similar relief with respect to this matter.

IV. ALL OTHER REMOVAL PREREQUISITES HAVE BEEN SATISFIED

12. Venue is proper in this district under 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action has been pending.

13. As far as Defendant is aware, no further proceedings have occurred in the Action.

14. A Notice of Filing of Notice of Removal, with a copy of this Notice of Removal attached, will be promptly filed with the County Court at Law of Bowie County, Texas.

15. Written notice of the filing of this Notice of Removal will be given to the adverse party as required by law.

16. Defendant has tendered the requisite filing fee to the Clerk of the United States District Court for the Eastern District of Texas, Texarkana Division.

17. For all the foregoing reasons, this Court has original jurisdiction under 28 U.S.C. §§ 1332 and 1441(b). In the event that any questions should arise with regard to the propriety of the removal of this Action, Defendant respectfully requests the opportunity to present a brief oral argument in support of the positions expressed herein.

Respectfully submitted,

/s/ Jennifer H. Doan

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). All other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by certified mail, return receipt requested, on this 6th day of March, 2017.

/s/ Jennifer H. Doan

Jennifer H. Doan